

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 4932

IN THE MATTER OF:

Served September 17, 1996

Application of OLD TOWN TROLLEY)
TOURS OF WASHINGTON, INC., and)
D.C. DUCKS, INC., for Approval)
and Temporary Approval Pursuant)
to the Compact, Article XII,)
Section 3)

Case No. AP-96-44

By application filed July 24, 1996, Old Town Trolley Tours of Washington, Inc., WMATC Carrier No. 124, and D.C. Ducks, Inc., WMATC Carrier No. 267, seek Commission approval of a license agreement pursuant to Article XII, Section 3(a), of the Compact. Applicants also request temporary approval under Section 3(d).

The license agreement grants Old Town the exclusive right to use the assets of D.C. Ducks from March 18, 1996, to November 15, 1997, with an option to purchase.

Under Article XII, section 3(d), of the Compact, the Commission may grant Old Town temporary approval to operate the assets of D.C. Ducks up to a maximum of 180 consecutive days, but only if said grant is found to be consistent with the public interest.¹ The public interest analysis requires an assessment of the fitness of the carrier acquiring control and of whether and to what extent a denial of temporary approval would cause a diminution in value or utility of the subject property.²

As an existing WMATC carrier, Old Town is entitled to a presumption of fitness, and inasmuch as D.C. Ducks no longer controls any vehicles, it is entirely possible that denial of temporary authority will result in a diminution in the value of goodwill associated with D.C. Ducks's operations until the application is approved under Article XII, Section 3(c).³ Old Town has stated as much in its letter of application. Accordingly, we will grant temporary approval. Such approval shall be effective from the date of transferee's compliance with certain conditions, as specified below, and continue until such time as the application is decided under Article XII, Section 3(c), not to exceed 180 days.

¹ In re Regency Servs., Inc., & Carey Limo. D.C., Inc., No. AP-95-39, Order No. 4789 (Nov. 2, 1995).

² Id.

³ Id.

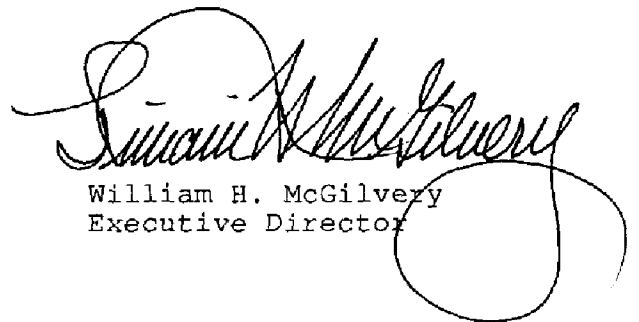
THEREFORE, IT IS ORDERED:

1. That contingent on Old Town complying with the requirements of this order, Old Town is hereby granted temporary approval to operate the assets of D.C. Ducks, and that such approval shall be effective from the date of compliance with the next following paragraph and continue until such time as the application is decided under Article XII, Section 3(c), not to exceed 180 days.

2. That Old Town is hereby directed to file the following documents with the Commission: (a) an original and four copies of a tariff or tariffs in accordance with Commission Regulation No. 55; and (b) a notarized affidavit of temporary vehicle identification pursuant to Commission Regulation No. 61, for which purpose WMATC TA No. AP-96-44 is hereby assigned.

3. That unless Old Town complies with the requirements of this order within 30 days from the date of its issuance, or such additional time as the Commission may direct or allow, the grant of temporary approval shall be void and the application for temporary approval shall stand denied in its entirety effective upon the expiration of said compliance time.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS ALEXANDER, LIGON, AND MILLER



William H. McGilvery
Executive Director